

Appl. No. 09/823,127
Amdt. Dated 03/16/2006
Reply to Office Action of December 16, 2005

REMARKS/ARGUMENTS

This Amendment is in response to the Office Action mailed December 16, 2005. In the Office Action, claims 1-5, 7, 9, 10, 12-13, 16-18, 21-25 and 27 were rejected under 35 U.S.C. §102, and claims 4-8, 11-15, 17-20 and 24-28 were rejected under 35 U.S.C. §103. Reconsideration in light of the amendments and remarks made herein is respectfully requested.

With respect to claims 4-5, 7, 12-13, 17-18, 24-25 and 28, the Examiner rejects these claims under 35 U.S.C. §§ 102 and 103. These rejections are quite unclear as to which claims are directed to which statutory grounds for rejection. For instance, the claims set forth in paragraphs 3-4 of the Office Action are not equivalent to the claims set forth in paragraph 2. Moreover, the Examiner alleges, on page 4 of the Office Action, that Isfeld (U.S. Patent No. 5,828,835) teaches elements of the frame fragmentation control information that are supposedly taught by White (U.S. Published Application No. 2002/015011 A1). Correction of these inconsistent statements is respectfully requested if any further Office Actions are forthcoming.

Rejection Under 35 U.S.C. § 102

Claims 1-5, 7, 9, 10, 12, 13, 16-18, 21-25 & 27 were rejected under 35 U.S.C. § 102(b) as being anticipated by White (US 2002/0150100 A1). Applicant respectfully requests the Examiner to withdraw the rejection because a *prima facie* case of anticipation has not been established.

As the Examiner is aware, to anticipate a claim, the reference must teach every element of the claim. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Vergegual Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the...claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ 2d 1913, 1920 (Fed. Cir. 1989).

White teaches a "B" parameter placed in a fragmentation *header* (170) and an "F" parameter placed the fragmentation *trailer* (180). *Emphasis added*. The sequence number is placed in the fragmentation *header* (170) as well. A first subframe is identified by setting "BF"

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parameters to "10" while a last subframe is identified by BF parameters having the values "01". Intermediary subframes are identified by these BF parameters" as "00". See paragraphs [0046] - [0048] of White.

Therefore, with respect to independent claim 1, Applicant respectfully submits that White does not teach or suggest appending a first frame fragmentation control information to the end of the first data segment, where the first frame fragmentation control information includes at least one of (i) a first frame fragmentation indicator, (ii) a frame fragment sequence number, and (iii) a channel number. According to the Office Action, it appears that the Examiner contends the "Begin Flag (122)" of White is equivalent to the first frame indicator and the trailer (180) of White is equivalent to the frame fragmentation control information. Applicant respectfully disagrees with this contention because White teaches placement of the first frame fragmentation indicator, namely the begin flag (122), in the header of the first subframe (140). More specifically, such teachings are contrary to the positioning of the first frame fragmentation indicator within the appended, first frame fragmentation control information as set forth in claim 1, and in fact, teaches away from the positioning as claimed.

In addition, Applicant respectfully submits that White does not teach or suggest the frame fragment sequence number or the channel number within the first fragmentation control information as claimed. White teaches placement of the frame fragment sequence number within the fragmentation header (170) and offers no teaching of a channel number as claimed. *Emphasis added.* Isfeld teaches a message address field that features a receive channel field (bits 8:7), but Applicant respectfully submits that it appears that this address field will be placed in the header of a message and not within information appended thereto.

Based on the foregoing, Applicant respectfully requests the Examiner to withdraw the outstanding rejection associated with independent claim 1 and those claims dependent thereon.

With respect to independent claims 9, 16 and 21, Applicant respectfully incorporates the arguments set forth above. Each of these revised claims does not include each and every limitation set forth in White, as thus, the rejections under 35 U.S.C. §102(e) should be withdrawn.

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In addition, based on the dependency of claims 2-5, 7, 10, 12, 13, 17-18, 22-25 & 27 on independent claims 1, 9, 16 and 21, believed by Applicant to be in condition for allowance, no further discussion as to the grounds for traverse is warranted. Applicant reserves the right to present such arguments if an Appeal is warranted. Withdrawal of the §102(c) rejection as applied to these dependent claims is respectfully requested.

Rejection Under 35 U.S.C. § 103

Claims 4-8, 11-15, 17-20 & 24-28 were rejected under 35 U.S.C. § 103(a) as being unpatentable over White in view of Isfeld (U.S. Patent No. 5,828,835). Applicant respectfully traverses the rejection because a *prima facie* case of obviousness has not been established.

As the Examiner is aware, to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify a reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all of the claim limitations. *See MPEP §2143; see also In Re Fine, 873 F. 2d 1071, 5 U.S.P.Q.2D 1596 (Fed. Cir. 1988).* Herein, the combined teachings of the cited references fail to describe or suggest all the claim limitations.

Herein, Applicant respectfully submits that a *prima facie* case of obviousness has not been established because neither White nor Isfeld, alone or in combination, teaches or suggests the frame fragmentation control information being appended to the end of the first data segment and including the first frame fragmentation indicator, and/or the frame fragment sequence number, and/or the channel number. *Emphasis added.* The outstanding rejection set forth in the Office Action does not take into account the positioning of the particulars of frame fragmentation control information as claimed, but rather, merely looks to such contents within various subframes.

Therefore, Applicant respectfully requests the Examiner to reconsider the allowability of the pending independent claims, and to withdraw the outstanding §103 rejection.

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It is important to reiterate that, based on the dependency of claims 4-8, 11-15, 17-20 & 24-28 on independent claims 1, 9, 16 and 21, believed by Applicant to be in condition for allowance, these dependent claims are in condition for allowance. No further discussion as to the grounds for traverse is warranted at this time. Applicant reserves the right to present such arguments if an Appeal is warranted.

Conclusion

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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